



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
2 NAVY ANNEX  
WASHINGTON, D.C. 20370-5100

TRG  
Docket No: 2711-99  
30 November 2000



Dear [REDACTED]:

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 29 November 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by the Bureau of Medicine and Surgery dated 18 January 2000, a copy of which is enclosed. The Board also considered the rebuttal to the advisory opinion submitted by your brother.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Navy on 28 June 1982 at age 18. The record shows that during the period 2 February 1983 to 11 April 1983 you received nonjudicial punishment on three occasions. Your offenses were two absences from your appointed place of duty and disrespect. You then served until 28 August 1985 before you received another NJP for three instances of disrespect, disobedience and dereliction of duty. On 9 May 1986 you received your fifth NJP for disobedience.

On 27 June 1986 you were placed on legal hold because of a pending court-martial. A general court-martial convened on 22 July 1986 and convicted you of the theft of two parachutes and a flight helmet, assault by attempting to bite a military policeman, two instances of disorderly conduct, three instances of disrespect, and breaking restriction. The court sentenced you to reduction to pay grade E-1, forfeiture of all pay and allowances, confinement at hard labor for nine months and a

dishonorable discharge. On 22 March 1987 you began appellate leave and the dishonorable discharge was issued on 4 January 1988.

In its review of your application the Board carefully weighed all potentially mitigating factors, such as the fact that you were very close to completing your enlistment and the diagnosed personality disorder. The Board also considered the contention, in effect, that you actually suffered from a more serious mental illness which led to your disciplinary problems. As indicated in the enclosure, Navy psychiatrists have reviewed the psychiatric evaluations completed while you were in the Navy and have concluded that there is no evidence that you had a severe mental illness at the time of your offenses.

In the rebuttal to the advisory opinion submitted on your behalf, a former teacher describes your poor adjustment and disciplinary problems while you were in high school. Other documentation shows that you are taking medication for a mental illness.

The Board found that these factors and contentions were not sufficient to warrant recharacterization of your discharge. The Board noted that you had several lengthy periods without any disciplinary infractions, which suggested to the Board that you had the ability to avoid disciplinary problems. In addition, the records show that while in the Navy you were considered to be responsible for your actions and competent to stand trial. In this regard, the Board noted that you have not submitted any psychiatric evaluations to show the nature and severity of any mental illness or to connect such an illness with your misconduct while in the Navy, or to suggest that you were not responsible for your actions. Therefore, the Board substantially concurred with the comments contained in the advisory opinion. The Board concluded that the discharge was proper as issued and no change is warranted.

Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval

record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director

Enclosure

DEPARTMENT OF PSYCHIATRY  
NAVAL MEDICAL CENTER  
PORTSMOUTH, VIRGINIA 23708-2197

6520  
0506: SLB-2010  
18 JAN 00

From: Case Reviewers  
To: Chairman, Board for correction of Naval Records,  
Department of the Navy, Washington, D.C. 20370-2197  
Subj: REQUEST FOR COMMENTS AND RECOMMENDATIONS IN THE CASE  
OF [REDACTED]

Ref: (a) Your ltr dtd 12 OCT 99

Encl: (1) BCNR file  
(2) Service Record  
(3) Medical Record

1. Pursuant to reference (a) the review of enclosure (1) through (3) was conducted to form opinions about the subject petitioner's claims that he had a mental condition. As established by in-service and post-service psychiatric evaluations, that was sufficient to mitigate his misconduct to the extent that an administrative discharge be considered rather than the dishonorable discharge that he received.

2. Facts of the case:

(a) The petitioner began United States Naval service on 28 June 1982.

(b) On 2 February 1983, the petitioner received non-judicial punishment for being UA from his appointed place of duty and was awarded restriction and extra duties for 30 days and forfeiture of \$150 for one month.

(c) On 21 February 1983, the petitioner received non-judicial punishment for disrespect. He was awarded restriction and extra duties for 30 days and forfeiture of \$250 for one month.

(d) On 11 April 1983, the petitioner received non-judicial punishment for being UA from muster and was awarded forfeiture of \$50 for one month.

(e) From 24 October to 30 October 1983, the petitioner participated in the recovery of classified materials, personal belongings, and remains of United States service personnel who were killed by terrorist activity in Beirut, Lebanon. He subsequently received a letter of commendation from the commanding officer of the USS Austin for his performance during this activity.

(f) The petitioner was admitted to the psychiatry service at Naval Hospital Naples, Italy on 27 September 1985 for a suicidal gesture in which he climbed to the top of an air control tower and threatened to jump off unless he was allowed to speak to his commanding officer. He was hospitalized until 29 September 1985 and was transferred to Naval Medical Center Portsmouth. He was diagnosed with "mixed personality disorder." An administrative separation from the Navy was recommended.

(g) The member was admitted to the psychiatric service at Naval Medical Center Portsmouth from 10 October 1985 to 11 October 1985. His diagnosis was revised to "mixed personality disorder with immature and antisocial features, severe." An administrative discharge from the Navy was again recommended.

(h) On 9 May 1986, the petitioner received non-judicial punishment for two specifications for failure to obey a lawful written order on or about 2 May 1986. He was awarded restriction for 60 days.

(i) On 29 May 1986, the petitioner was charged with the theft of two parachutes between 25 February 1986 and 1 March 1986, wrongful possession of two parachutes and a flight helmet on or about 7 May 1986, wrongful concealment of two parachutes between 25 February 1986 and 7 May 1986, wrongful concealment of a flight helmet between 17 December 1985 and 7 May 1986, and breaking restriction on or about 18 May 1986.

(j) On 2 June 1986, he was evaluated by [REDACTED] CAPT, MC, USN, a psychiatrist, for suicidal ideation in the context of stress relating to his legal difficulties. He told the evaluating psychiatrist that he felt he was being treated unfairly and was not "going to let himself be pushed around." He was diagnosed with "mixed personality disorder with antisocial, histrionic, and passive-aggressive features." He was found fit for full duty, including performance of his restriction, appearance at court-martial or mast, and administrative processing. It was also recommended that he not be retained in the Navy and that an

administrative separation should be considered if her were not discharged by virtue of his anticipated court-martial.

(k) On 5 June 1986, the petitioner was charged with two counts of disorderly conduct.

(l) On 17 June 1986, the petitioner was charged with three counts of disrespect towards an officer, a senior chief, and a first-class petty officer and assault of a first-class petty officer.

(m) On 2 July 1986, the petitioner was evaluated by HM1 Micale, an independent duty corpsman at the Newport, Rhode Island brig, for "worrying." At that time, the petitioner stated that "if he has to do time in the brig for [his charges], he will 'kill myself no matter how long it takes or how many times I have to try.'" The petitioner also stated that he was not suicidal at the time as he was waiting for the results of the trial.

(n) The petitioner was evaluated and treated numerous times, including group therapy and sedation with Haldol once due to violent behavior, by [REDACTED] from 9 July 1986 to 4 November 1986.

(o) On 10 July 1986, the petitioner went to courts-martial for the above-named offenses.

(p) On 22 July 1986, the petitioner was convicted of violating UCMJ articles and was sentenced to confinement at hard labor for nine months, total forfeitures of pay, reduction in rate to E-1, and a dishonorable discharge from the Navy.

(q) On 10 September 1986, the petitioner was evaluated by R. D. Puder, CDR, MC, USN, a psychiatrist, after being placed in restraints in the brig following an episode of acute agitation and a suicide attempt by wrapping his T-shirt around his neck. In Dr. [REDACTED] note, it stated that the petitioner had received non-judicial punishment earlier in the day for disobeying an order and was fined money for two months. He was diagnosed as having a histrionic presentation of his underlying mixed personality disorder with antisocial and passive-aggressive features.

(r) On 3 December 1986, the petitioner was evaluated by [REDACTED], LCDR, MSC, USN, a clinical psychiatrist, and was diagnosed with "antisocial personality disorder."

(s) In May of 1987, an appeal to upgrade the character of the petitioner's discharge from the Navy was submitted.

(t) The petitioner was discharge dishonorably from the Navy on 4 January 1988.

2. The following opinions were submitted:

(a) There is ample documentation that strongly supports the diagnosis of a personality disorder.

(b) There is no documentation provided regarding mental health evaluations that occurred after the petitioner was discharged from the Navy.

(c) There is no evidence, based on the documentation reviewed, that the petitioner had a severe mental illness at the times of his offenses.

(d) Recommendation: There is insufficient evidence to support mitigation of his misconduct or to justify an upgrade in the character of the petitioner's discharge. Further documentation of his mental health evaluations after leaving the service may have been helpful in this regard in addition to establishing his current diagnosis.

(e) This review was conducted by [REDACTED] MC, USNR under the supervision of [REDACTED] MC, USN.

[REDACTED]  
LT MC USNR

(P)

[REDACTED]  
LCDR MC USN

(P)